



General Assembly

February Session, 2010

Amendment

LCO No. 5448

HB0509005448SR0

Offered by:
SEN. FASANO, 34th Dist.

To: House Bill No. 5090

File No. 666

Cal. No. 506

**"AN ACT REGULATING THIRD-PARTY ADMINISTRATORS AND
RATE APPROVALS FOR CERTAIN HEALTH INSURANCE
POLICIES."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective July 1, 2010*) (a) There is hereby created
4 within the office of the Attorney General the Division of Civil Rights
5 Protection. The Division of Civil Rights Protection shall be lead by a
6 director appointed under subsection (b) of this section.

7 (b) The director of the Division of Civil Rights Protection shall be
8 appointed by the Attorney General for a six-year term with the advice
9 and consent of the Senate. The director shall have a minimum of fifteen
10 years experience as an attorney, preferably, three of such fifteen years
11 shall be in private practice, and a minimum of five years experience
12 with an agency of government that performs investigations or five
13 years as a judge. No person may serve for more than one term as
14 director. The director shall report directly to the Attorney General. The

15 director cannot be removed from office by the Attorney General except
16 for official misconduct or gross incompetence. If the director is
17 removed by the Attorney General and believes that the dismissal was
18 not for cause, the director may appeal the dismissal to the joint
19 standing committee of the General Assembly having cognizance of
20 matters relating to the judicial branch, which may overturn the
21 director's removal by majority vote following an inquiry conducted
22 according to a process chosen by the chairpersons of said committee.

23 (c) The director of the Division of Civil Rights Protection shall
24 submit an annual budget request directly to the General Assembly.
25 The division shall be staffed by at least four licensed attorneys in
26 addition to the director and appropriate support staff. The division
27 shall be provided necessary funding in order to support its operations.

28 (d) (1) The Division of Civil Rights Protection shall investigate
29 allegations of fraud and misconduct pertaining to the violation of the
30 civil rights or civil liberties of any person or entity subject to the
31 jurisdiction of the office of the Attorney General lodged against any
32 employee or contractor involved in investigations at the office of the
33 Attorney General or against the Attorney General.

34 (2) The Division of Civil Rights Protection shall create a form by
35 which persons or entities subject to the jurisdiction of an Attorney
36 General investigation may lodge a complaint for fraud or misconduct
37 pertaining to civil rights or civil liberties. All such complaints shall be
38 submitted upon such form by mail or electronically.

39 (3) Each complaint shall be investigated by the Division of Civil
40 Rights Protection in the order received, except the director may use
41 discretion to prioritize the investigation of complaints, provided all
42 complaints are investigated.

43 (4) For each such complaint, the Division of Civil Rights Protection
44 shall perform a reasonable review of the facts and circumstances
45 surrounding the complaint, including review of the complaint and any
46 available documents concerning such complaints, and shall draw a

47 preliminary conclusion regarding whether it may become necessary to
48 perform examinations of witnesses under oath and to review all
49 relevant records, including the Attorney General's office, including but
50 not limited to, files and electronic mailings. If the director believes that
51 such examinations are necessary, the director shall seek the
52 authorization of the Attorney General to perform such an examination.
53 If the Attorney General denies the director's request, the director may
54 appeal to the presiding judge of the superior court for the judicial
55 district of Hartford, who may so authorize the Division of Civil Rights
56 Protection to perform such a review if the presiding judge believes that
57 the allegations suggest that the preliminary investigation has produced
58 a reasonable likelihood that the complaint has merit and that the
59 Attorney General's office has engaged in misconduct. For purposes of
60 this subdivision, "misconduct" means a violation of the rules of
61 professional conduct governing attorneys adopted by the judges of the
62 Superior Court, a violation of the general statutes, a violation of the
63 common law or a deviation from the standards of law enforcement
64 investigations.

65 (e) For complaints where the director has sought and received
66 permission to examine witnesses under oath and review documents
67 from the office of the Attorney General, the Division of Civil Rights
68 Protection may take sworn testimony of witnesses, review relevant
69 records, and issue subpoenas to do the same. Lying under oath to the
70 Division of Civil Rights Protection or otherwise obstructing an
71 investigation shall be a class D felony.

72 (f) All investigations must be finalized by the Division of Civil
73 Rights Protection with a finding by the director. If the director
74 determines that no further action is necessary, the complainant and the
75 person against whom the complaint was filed shall be so notified. If
76 the director determines that a crime may have been committed, the
77 director shall file a report with the Attorney General and recommend
78 prosecution by the Chief State's Attorney. The Attorney General shall
79 decide how to act upon this report. If the director believes that a rule of
80 professional conduct governing attorneys adopted by the judges of the

81 Superior Court has been violated by an attorney, the director shall
82 refer the matter directly to the State-Wide Bar Counsel, along with a
83 report setting forth the director's conclusions. If the director believes
84 that the subject of the investigation has otherwise demonstrated
85 incompetence or callous disregard for the rights of subjects of Attorney
86 General investigations, he shall so report to the Attorney General for
87 the Attorney General's review and management decision as to the
88 employee's standing in the division.

89 (g) The director of the Division of Civil Rights Protection shall
90 submit an annual report to the Attorney General and the joint standing
91 committee of the General Assembly having cognizance of matters
92 relating to the judicial branch setting forth the director's activities for
93 the year. This report shall include relevant statistics regarding the
94 number of cases initiated and completed and the resolution. The
95 director shall also provide the director's impressions regarding the
96 process employed by the office of the Attorney General during
97 investigations and their conformance with professional investigatory
98 standards. The director shall pay particular attention to potential
99 financial exposure to the possibility of a successful civil suit against the
100 office of the Attorney General or any state agency, that the
101 shortcomings of the Attorney General's office's investigative methods
102 may facilitate. The director shall make whatever recommendations for
103 changes in methodology by the Attorney General in its investigations
104 that the director believes are warranted because of shortcomings in
105 current procedures.

106 (h) The director of the Division of Civil Rights Protection shall, if the
107 director believes that the office of the Attorney General is wilfully
108 nonresponsive to valid criticisms that the director believes if not
109 corrected, may expose the state to civil liability, contact the
110 chairpersons of the joint standing committees of the General Assembly
111 having cognizance of matters relating to the judicial branch and to
112 appropriations and the budgets of state agencies and ask for a private
113 meeting in which to share the director's concerns. At such meeting, the
114 director shall explain the foundations for the concerns, the Attorney

115 General's failure to respond and the director's basis for believing that
116 the problems the director has identified, if left uncorrected, could
117 result in civil liability. The chairpersons of said joint standing
118 committees shall use discretion in acting upon such a report. All such
119 reports shall be confidential unless said chairpersons choose to make
120 them public. Any corrective action pursued by the General Assembly
121 as a result of such a report shall not be admissible in an action against
122 the state."